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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/737,399	12/15/2000	Michael Hahs	ASP-13	8832

7590 09/08/2005

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EXAMINER

HANDY, DWAYNE K

ART UNIT	PAPER NUMBER
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1743

DATE MAILED: 09/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

10

Office Action Summary	Application No. 09/737,399	Applicant(s) HAHS ET AL.	
	Examiner Dwayne K. Handy	Art Unit 1743	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

2. Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Williams et al. (5,882,611) in view of Fletcher et al. (4,550,834). Williams teaches a cassette assembly for delivering liquids. The cassette assembly (20) is best shown in Figure 2 and best described in columns 4 and 5. The assembly is comprised of a cassette (24) having cells (32) of liquid and a sleeve (22) for containing the cassette. The sleeve (22) is comprised of two portions - an inner layer (26) and an outer layer (28). The two layers come together to form a closed end (25) and open end (23) between two opposing sides. The sleeve also has a retaining member (120) for retaining the cassette. Williams teaches absorbent cardboard as the sleeve material in

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column 2, lines 34-39; column 3, lines 5-9; column 5, lines 1-8 and 43-50; and column 7, lines 49-52. Williams discloses cassette indicia in column 5, lines 60-62 and Figure 1. Williams does not teach a first and second tabs at the end of the sleeve (or extending from the retaining member).

Fletcher teaches a self-erecting container for holding products. The products are loaded into the container via a side opening. The container is best shown in Figures 1 and 2 and described in columns 3 and 4. The container has an end wall flap (40) that is connected to the sidewalls (15 and 16) by connecting webs or dust flaps (45, 46). When the end flap (40) is closed, the dust flaps fold inwardly as shown in Figure 5. The Examiner considers the dust flaps as being equivalent to applicant's "first and second tabs" from the instant claims. Fletcher states that the connection of the end wall flap to the front and side panels help to maintain the structural integrity of the container (col. 4, lines 25-42). It would have been obvious to one of ordinary skill in the art to combine the flaps from Fletcher with the sleeve of Williams. One would add the attached flaps to help add to the structural integrity of the sleeve as in Fletcher.

3. Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Williams et al. (5,882,611) and Fletcher et al. (4,550,834) as applied to claims 1-6 above, and further in view of Woodaman (5,869,341). Williams and Fletcher, as applied to claims 1-6 above, teach every element of claims 7 and 8 except for an indicator strip on the sleeve. Woodaman teaches a food contamination detector. The detector is comprised of a bar code label having an indicator substance. The label is placed onto a

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surface of the food container and changes color when exposed to a food contaminant in the container. It would have been obvious to one of ordinary skill in the art to combine the label of Woodaman with the combined teachings of Williams and Fletcher. One would add the label from Woodman in order to determine if unwanted material was present on the sleeve.

Response to Arguments

4. Applicant's arguments, filed 6/17/2005, with respect to the rejection(s) of claim(s) 1-8 under Williams and Holkestad, etc. have been fully considered and are persuasive. The Examiner agrees with applicant that the Holkestad reference is non-analogous art. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Williams and Fletcher.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Lorence et al. (5,839,574) teaches a carton for containing a frozen food tray. Nguyen et al. (6,412,340) and Hanley et al. (6,565,802) teach systems for analyzing liquids in a cartridge. Mueller (3,765,529), Hart et al. (4,313,541), De Nola (5,242,017), Cassidy (4,445,613), and Agren (6,843,408) teach cartons for the shipping and/or display of articles.

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6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dwayne K. Handy whose telephone number is (571)-272-1259. The examiner can normally be reached on M-F 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill Warden can be reached on (571)-272-1267. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DKH
September 5, 2005



LYLE A. ALEXANDER
PRIMARY EXAMINER